

LAW OFFICES
HALEY, BADER & POTTS

4350 NORTH FAIRFAX DR., SUITE 900

ARLINGTON, VIRGINIA 22203-1633

TELEPHONE (703) 841-0606

FAX (703) 841-2345

POST OFFICE BOX 19006

WASHINGTON, D.C. 20036-9006

TELEPHONE

(202) 331-0606

SUSAN H. ROSENAU
ADMITTED IN D.C. ONLY

RECEIVED

JUN - 1 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

June 1, 1993

By Hand

Donna R. Searcy

Secretary

Federal Communications Commission

Washington, D.C. 20554

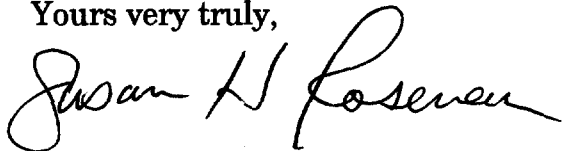
RE: MM Docket No. 93-42, Calistoga, California

Dear Ms. Searcy:

On behalf of Moonbeam, Inc., an applicant (File No. BPH-911115MG) for a New FM Station on Channel 265A in Calistoga, California, please find the original and six copies of the Opposition to Motion to Strike in the above-referenced proceeding.

Kindly communicate any questions directly to this office.

Yours very truly,



Susan H. Rosenau

Enclosures (6)

cc: Moonbeam, Inc.
Larry Miller, Esquire
A. Wray Fitch, Esquire

A. 1

JUN 1 1993

Before The

Federal Communications CommissionFEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Washington, D.C. 20554

In re Applications Of)	Docket No. <u>MM 93-42</u>
)	
MOONBEAM, INC.)	File No. BPH-911115MG
)	
GARY E. WILLSON)	File No. BPH-911115MO
)	
For a Construction Permit for a)	
New FM Station on Channel)	
265A in Calistoga, California)	

To: The Honorable Edward Luton
Administrative Law Judge

Opposition to Motion to Strike

Moonbeam, Inc. ("Moonbeam"), by its attorneys, respectfully submits this Opposition to the Motion to Strike filed by Gary Willson ("Willson") on May 14, 1993, stating in support thereof as follows:

1. In his Motion, Willson seeks to strike the Declaration of Elliott Klein submitted in support of the Reply of Moonbeam, Inc. in Support of its Motion to Enlarge, filed May 6, 1993 ("Moonbeam Rep."), on the grounds that its use violates Rule 1.45 and is hearsay.

2. As noted in Moonbeam's reply, "Willson's opposition has brought into issue what Mr. Pringle said and did with respect to Willson's site request . . . Moonbeam submits the Declaration of Elliot Klein as rebuttal to the matters raised by Willson, and as impeachment of Mr.

Pringle's sworn declaration." Moonbeam Rep, n.2. As such, it is in fact "limited to the matters raised in the oppositions" and therefore in compliance with Section 1.45 of the Commission's Rules.

3. Willson also claims the declaration should be stricken on the grounds that it is hearsay. Willson, however, has offered Len Pringle's testimony in support of his opposition. and Moonbeam has the right to

CONCLUSION

For the foregoing reasons, Moonbeam, Inc. respectfully requests
that the Motion to Strike be denied.

Respectfully submitted,

MOONBEAM, INC.

By Singh HP 10 11 011

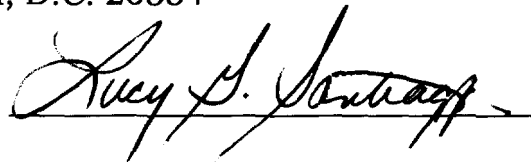
CERTIFICATE OF SERVICE

The undersigned, an employee of Haley, Bader & Potts, hereby certifies that the foregoing Opposition to Motion to Strike was mailed this date by First Class U.S. Mail, postage prepaid, or was hand-delivered*, to the following:

A. Wray Fitch, III, Esquire
Gammon & Grange
8280 Greensboro Drive
McLean, VA 22102-3807

Administrative Law Judge Edward Luton
2000 L Street N.W.
Washington, D.C. 20036

Larry Miller, Esquire*
Federal Communications Commission
Mass Media Bureau, Hearing Branch
Suite 7212
2025 M Street N.W.
Washington, D.C. 20554

A handwritten signature in cursive script, appearing to read "Lucy D. Sontag", written over a horizontal line.

June 1, 1993